

**Before the  
FEDERAL COMMUNICATIONS COMMISSION  
Washington, DC 20554**

Provision of Improved	)	
Telecommunications Services and	)	
Speech-to-Speech Services for	)	
Individuals with Hearing and Speech	)	CC Docket No. 98-67
Disabilities	)	

**COMMENTS OF THE  
CELLULAR TELECOMMUNICATIONS & INTERNET ASSOCIATION**

The Cellular Telecommunications & Internet Association ("CTIA")<sup>1</sup> hereby submits its Comments in the above captioned proceeding<sup>2</sup> in support of the Petition for Interim Waiver and Rulemaking ("Petition") filed by the National Exchange Carrier Association ("NECA"), on behalf of the Interstate Telecommunications Relay Service Fund Advisory Council ("Council").<sup>3</sup>

In the Petition, NECA and the Council seek a waiver of the Commission's rules governing TRS cost recovery.<sup>4</sup> Specifically, they request that the Commission waive these rules in order to allow compensation from the interstate fund to relay service providers for all calls

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<sup>1</sup> CTIA is the international organization of the wireless communications industry for both wireless carriers and manufacturers. Membership in the association covers all Commercial Mobile Radio Service ("CMRS") providers and manufacturers, including cellular, broadband PCS, ESMR, as well as providers and manufacturers of wireless data services and products.

<sup>2</sup> *National Exchange Carrier Association (NECA) Petition For Interim Waiver And Rulemaking Regarding The Cost Recovery For Wireless Telecommunications Relay Service (TRS) Calls*, Public Notice, CC Docket No. 98-67, DA 02-2136 (rel. Aug. 30, 2002).

<sup>3</sup> *See Provision of Improved Telecommunications Services and Speech-to-Speech Services for Individuals with Hearing and Speech Disabilities*, CC Docket No. 98-67, Petition for Interim Waiver and Rulemaking, filed July 22, 2002 ("Petition").

<sup>4</sup> *See* 47 C.F.R. §§ 64.404(c)(5) and 64.605(d) (2001).

placed from wireless telecommunications devices. They maintain that a waiver for a two-year period is necessary to ensure the availability of relay services for wireless TRS users, pending further study of compensation methods for wireless and other TRS calls wherein determining the jurisdiction nature of the TRS call is problematic.<sup>5</sup>

CTIA commends NECA's and the Council's effort to address this issue, and supports the waiver sought by NECA and the Council. CTIA submits that granting the waiver is consistent with Section 225 of the Communications Act of 1934, as amended, which requires the Commission to "ensure that interstate and intrastate telecommunications relay services are available, *to the extent possible and in the most efficient manner*, to hearing-impaired and speech-impaired individuals in the United States."<sup>6</sup>

The Petition correctly states the difficulties associated with wireless TRS calls, and the consequences to wireless consumers who use TRS. The fundamental problem is determining the jurisdiction of calls place to or from wireless phones under the current TRS system.<sup>7</sup> Granting a waiver of the FCC's TRS cost recovery rules will allow relay service providers to receive compensation for all calls from wireless telecommunications devices, and will help alleviate, if not eliminate, problems determining the jurisdictional nature of a wireless TRS call.

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<sup>5</sup> Petition, at 1, 6-7.

<sup>6</sup> 47 U.S. C. § 225(b)(1) (2001)(emphasis added).

Granting the waiver is also consistent with the Commission's decision authorizing IP Relay providers to recover their costs from the Interstate TRS Fund on an interim basis. Wireless TRS callers are similarly situated to IP relay callers in that there is no automatic method for determining if a call placed over IP Relay or over a wireless network is intrastate or interstate. CTIA recommends that the Commission accord similar treatment to wireless TRS calls. *See Provision of Improved Telecommunications Relay Services and Speech-to-Speech Services for Individuals With Hearing and Speech Disabilities*, 67 Fed. Reg. 39863 (2002) ("IP Relay Declaratory Ruling").

Furthermore, the Petition demonstrates the de minimis impact of an interim waiver on the interstate TRS fund.<sup>8</sup> CTIA agrees with NECA and the Council that allowing the Interstate TRS Fund Administrator to compensate TRS providers for all wireless TRS calls is the most efficient way for the Commission to ensure the availability of interstate and intrastate relay services to wireless TRS users. Waiver of the TRS cost recovery rule will obviate the need for state TRS administrators to determine whether a particular wireless call is jurisdictionally inter- or intrastate for purposes of compensation. Accordingly, CTIA strongly recommends that the Commission grant the Petition for an interim waiver of the Commission's TRS cost recovery rules for all wireless TRS calls.

The Petition asks the Commission to initiate a separate rulemaking to address long-term compensation methods for relay services in circumstances where it is impossible to determine the jurisdiction of the call from the automatic number identification ("ANI") data transmitted with the calls, *e.g.*, wireless TRS calls, IP relay, wireline local number portability.<sup>9</sup> While CTIA supports a permanent solution to this issue, CTIA questions whether a separate rulemaking is the most effective regulatory procedure for the Commission to address such issues in a timely manner. While the Administrative Procedure Act and the FCC procedural rules will guide the Commission's choice as to the appropriate procedure and forum for addressing such issues, CTIA urges the Commission to act expeditiously.

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<sup>7</sup> Petition, at 4-6.

<sup>8</sup> Petition, at 6-7.

<sup>9</sup> Petition, at 7-8.

## **I. THE CURRENT TRS SYSTEM IS NOT CONDUCTIVE FOR WIRELESS TRS CALLS.**

The current TRS system was developed based on the wireline model, which uses state geopolitical boundaries and the ANI transmitted with the call to identify the specific location of a call, *i.e.*, whether the call is intra- or inter-state. Unfortunately, this model is not conducive for the handling, delivery and cost recovery of TRS calls in a mobile phone environment. The multi-state nature of CMRS licensed service areas and roaming transcends state geopolitical boundaries. This factor and the ANI data associated with wireless calls<sup>10</sup> does not indicate the user's location; thus, it is virtually impossible for a TRS provider to determine whether a wireless TRS call is jurisdictionally intra- or inter-state for purposes of handling, delivery, and cost recovery of wireless TRS calls. Consistent with its position in the FCC's 7-1-1 proceeding and the existing TRS proceeding, CTIA supports NECA's and the Council's efforts to have the Commission consider an alternative and effective mechanism that can address the unique challenges which occur when processing wireless TRS calls in a wireline environment. Accordingly, CTIA strongly recommends that the Commission grant the Interstate TRS Fund Administrator permanent authority to compensate TRS providers for any costs associated with the handling, origination, or termination of a wireless TRS call.

In the Petition, NECA and the Council acknowledge that similar problems may occur in other circumstances where it is impossible to determine the jurisdiction of the call from the ANI

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<sup>10</sup> See *In the Matter of The Use of N11 Codes and Other Abbreviated Dialing Arrangements*, CC Docket No. 92-105, *Ex Parte* Letter from Dustun L. Ashton, CTIA, to Magalie Roman Salas, Secretary, Federal Communications Commission, Attachment (filed July 5, 2000)(explaining that wireless calls do not always transmit the ANI associated with the wireless phone. In some instances, the wireless call will transmit the ANI associated with the switch that may be located in another state.)

data transmitted, *e.g.*, both wireline and wireless local number portability.<sup>11</sup> CTIA concurs with NECA's and the Council's assessment and strongly urges the Commission to use this Petition as an opportunity to assess how TRS will function in a numbering environment that is in transition from a strictly LATA-boundary and carrier-specific paradigm to various forms of number portability. It is crucial that the Commission takes appropriate steps while implementation of both wireline and wireless LNP are in the nascent stages, rather than after LNP technical solutions are embedded in both the wireline and wireless infrastructure.<sup>12</sup>

**II. GRANTING A WAIVER WILL HAVE A DE MINIMIS IMPACT ON THE INTERSTATE TRS FUND AND ENSURES THAT WIRELESS TRS USERS BENEFIT FROM WIRELESS CONTRIBUTIONS TO INTERSTATE TRS FUND.**

As indicated in the Petition, CTIA has worked closely with NECA, the Council and relay service providers to quantify the extent of the problems associated with wireless TRS calls.<sup>13</sup> The Petition estimates the amount of additional funding that may be required as a result of the waiver, and NECA indicates that there are sufficient funds in the Interstate TRS Fund to effectuate such a change without having to impose additional funding requirements on wireless carriers.<sup>14</sup> CTIA concurs with NECA's and the Council's conclusion that the "minimal increase

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<sup>11</sup> Petition, at 7.

<sup>12</sup> Addressing whether and how a methodology can be devised to allocate cost recovery between the Interstate TRS Fund and the states is not a new issue before the Commission. The Commission acknowledges such in its Declaratory Ruling clarifying IP relay services. *See* IP Relay Declaratory Ruling, 67 Fed. Reg., at 39863.

<sup>13</sup> CTIA met with NECA, and the Council on April 23, and June 6, 2002 to discuss this issue. The Parties, including relay service providers, have maintained an on-going and constructive dialogue in their efforts to make TRS service available to wireless TRS users..

<sup>14</sup> Petition, at 6-7.

in cost [as result of the waiver] would be far outweighed by the public interest benefits to the change.”<sup>15</sup>

Wireless carriers contribute annually to the interstate TRS fund,<sup>16</sup> and contemplate that relay service will be made available to their wireless customers who use relay services.

Although wireless carriers have paid into the Interstate TRS Fund for years, there are instances where wireless customers are denied TRS service or cannot readily access relay services due to limitations placed on the relay provider by the state TRS contract. For example, the current TRS system does not provide a mechanism that will allow wireless TRS users to use the long distance included with their service plans.<sup>17</sup> Unless the wireless carrier has a contractual arrangement with a relay service provider to handle its customers’ relay calls, the relay provider will require the wireless TRS user to assure payment of the toll charge or long distance portion of the call before delivering the call. Consequently, the wireless TRS caller pays twice for the toll or long distance portion of the call, and the wireless carrier contributes to a fund that subsidizes a relay service which the wireless carrier’s customers who use TRS cannot readily access.

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<sup>15</sup> Petition, at 7.

<sup>16</sup> CTIA roughly estimates that over a four-year period (1996 – 2000), wireless carriers contributed approximately \$16.3 million dollars to the Interstate TRS Fund. This estimate is based on the total interstate and international wireless revenues reported in the FCC’s Universal Service Monitoring Report (Oct. 2001) at Table 1.1, the FCC’s Report on Telecommunications Industry Revenues for 2000 (rel. Jan. 2002) at Table 6, the FCC’s Report on Trends in Telephone Service (rel. May 2002) at Table 16.4 (reporting 2001 preliminary revenues), and the applicable annual TRS contribution factors.

<sup>17</sup> The Telecommunications Act of 1996 repealed the equal access requirement for CMRS carriers, which has resulted in CMRS carriers offering competitive rate plans. The repeal of the equal access requirement has allowed wireless carriers to purchase large blocks of minutes from a long distance carrier of the CMRS carrier’s choice at substantial discounts. CMRS carriers pass the substantial savings along to their wireless customers in the form of one-rate plans. Hence, wireless carriers can offer nationwide, virtually seamless service that eliminates “toll” or “long distance” charges for their customers.

CTIA concurs with NECA's and the Council's assessment that wireless customers are currently disadvantaged in accessing relay services because the delivery of TRS is based on the wireline model which is not conducive to handling wireless TRS calls. While granting the waiver would resolve the immediate problems associated with processing wireless TRS calls, it also ensures that wireless TRS users receive the full benefits of relay service.

## **CONCLUSION**

For the reasons set forth above, CTIA urges the Commission to grant the Petition for interim waiver, and to address soon long-term compensation methods for relay services in circumstances, such as wireless TRS call, LNP, and IP relay service, where it is impossible to determine the jurisdiction of the call from the ANI data transmitted.

Respectfully submitted,

      /s/ Andrea D. Williams

### **CELLULAR TELECOMMUNICATIONS & INTERNET ASSOCIATION**

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